IN THE HIGH COURT OF JUDICATURE FOR RAJASTHAN
AT JAIPUR BENCH, JAIPUR

O R D E R

S.B. CRIMINAL REVISION PETITION NO. 235/2007

GOPAL LAL & ANR. Vs. STATE OF RAJASTHAN

DATE: 21.05.2007.

HON'BLE MR. K.S. RATHORE, J.

Mr. S.R. Surana for the accused-petitioners.
Mr. B.K. Sharma, Public Prosecutor for the State.
Mr. B.S. Chouhan for the complainant.

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This criminal revision petition under Section 397 Cr.P.C. is preferred by the accused-petitioners against the order dated 25.01.2007 passed by the Additional Sessions Judge (Fast Track) No.1, Jaipur District, Jaipur in Sessions Case No. 16/2007, whereby charges for the offences under Sections 323, 304 Part-II, 304 Part-II/34 IPC have been framed against the accused-petitioners.

The main thrust of the petitioners is that as per the prosecution death of deceased Satyanarain occurred on account of myocardial infarction and this could only be possible on account of blockage in blood vessels and not on account of scuffle took place. To substantiate his argument the learned counsel Mr.

Surana appearing on behalf of the accused-petitioners referred the *Ashok Medical Dictionary,* wherein the word 'myocardial infarction' has been defined as under:-

> 'Myocardial infarction- Heart attack. Necrosis of an area of the myocardium following occlusion of one or more of the coronary arteries.'

Further in this dictionary the word 'occlusal' and 'occulsion' are defined as under:-

> 'Occlusal- Relating to the closure of an opening.'
>
> 'Occlusion- The closure of the opening of a tube or duct.'

Learned counsel for the accused-petitioners also referred several judgments in support of his submissions.

Per contra, learned counsel Mr. Chouhan appearing on behalf of the complainant has submitted that as per the medical opinion the death of the deceased caused on account of myocardial infection and infarction and the term traumatic asphyxia is applied where there is mechanical fixation of the chest sufficient to cause death and to this effect he referred the *MODI's Medical Jurisprudence and Toxicology* and submits that there are several reasons

of death.

Mr. Chouhan also referred the *ABHINAV'S MEDICAL DICTIONARY,* wherein meaning of word 'infarction' has been defined as 'The formation of an infarct'. There is three types of 'Infarction', Cerebral infarction, Myocardial infarction and Pulmonary infarction.

Learned counsel for the accused-petitioners has strongly contended that in any case no case under Section 304/34 IPC is made out and at the most only a case under Section 323 IPC is made out against the accused-petitioners.

Upon careful perusal of the impugned order framing charge against the accused-petitioners for the offences under Sections 323, 304 Part-II, 304 Part-II/34 IPC, the Court below has to see whether any prima-facie case is made out against the accused or not? Even considering the submissions made on behalf of both the parties, prima-facie case for the offence under Section 304 Part-II IPC is made out against the accused-petitioners, therefore, I find no illegality or error in the impugned order dated 25.01.2007 passed by the Additional Sessions Judge (Fast Track) No.1, Jaipur District, Jaipur framing charge against the accused-

petitioners for the offences under Sections 323, 304 Part-II, 304 Part-II/34 IPC.

All the legal and just objections taken here in this revision petition can be taken at the time of trial but so far as quashing and setting aside the impugned order dated 25.01.2007 framing charge against the accused-petitioners for the aforesaid offences, no case of interference is made out at this stage. The judgments referred by the learned counsel for the accused-petitioners are not applicable to the facts and circumstances of the present case.

Consequently, the revision petition fails and the same is hereby dismissed.

Record be sent back forthwith.

(K.S. RATHORE),J.

/KKC/